

CAUSE NO. _____

ANTONIO MILLER	§	IN THE DISTRICT COURT OF
	§	
V.	§	HARRIS COUNTY, TEXAS
	§	
WAL-MART STORES TEXAS, LLC	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, ANTONIO MILLER (hereinafter "Plaintiff") in the above-entitled and numbered cause, complaining of and against WAL-MART STORES TEXAS, LLC (hereinafter "Defendant") and for cause of action would respectfully show unto the Court and Jury the following:

A. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery under Level 2 of Texas Rule of Civil Procedure 190.3.

B. PARTIES

2. Plaintiff is a resident of Harris County, Texas.

3. Defendant is a foreign limited-liability company and may be served with citation by serving its registered agent CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas, 75201.

C. JURISDICTION AND VENUE

4. This Court has jurisdiction over all of the parties and the subject matter involved in this litigation.

5. Venue is proper in Harris County, Texas pursuant to Tex. Civ. Prac. & Rem. Code § 15.002(a)(1) because all or a substantial part of the events or omissions giving rise to Plaintiff's claim occurred in Harris County, Texas.

D. FACTS

6. On or about May 5, 2023, Plaintiff entered into Walmart Supercenter #3584 in Houston, Texas that was owned, operated, and/or controlled by Defendant. While walking inside the store, Plaintiff slipped and fell on a puddle of water that was on the floor unbeknownst to Plaintiff. As a result of the fall, Plaintiff suffered significant physical injuries.

7. Plaintiff's damages were the direct and proximate result of the actions and/or omissions by Defendant.

E. CAUSE OF ACTION

Premises Liability

8. At the time of the incident made the basis of this suit,

- a. Plaintiff was an invitee on the premises. As a result, Defendant owed a duty to exercise ordinary care to Plaintiff at the time of said incident;
- b. Defendant had actual or constructive knowledge of an unreasonable risk of harm on the premises in the form of a puddle of water on the floor;
- c. The puddle of water posed an unreasonable risk of harm to Plaintiff;
- d. Defendant failed to warn of and failed to eliminate the unreasonable risk of harm, and;
- e. Defendant's failure to warn of or eliminate the unreasonable risk of harm proximately caused Plaintiff's injuries.

9. Defendant is vicariously liable for the negligent acts and/or omissions of its employees via the doctrine of *respondeat superior*.

F. DAMAGES

10. As a direct and proximate result of Defendant's acts and/or omissions, Plaintiff suffered the following injuries and damages:

- a. Reasonable and necessary medical expenses in the past, and in all reasonable medical probability, will continue to incur reasonable and necessary expenses in the future;
- b. Physical pain and suffering in the past, and in all reasonable medical probability, will continue to endure physical pain and suffering in the future;

- c. Mental anguish in the past and, in all reasonable probability, mental anguish in the future;
 - d. Physical disfigurement in the past and, in all reasonable probability, physical disfigurement in the future;
 - e. Physical impairment in the past and, in all reasonable medical probability, will continue to suffer physical impairments into the future;
 - f. Loss of earning capacity in the past, and, in all reasonable probability, earning capacity lost in the future; and
 - g. Loss of personal property.
11. Plaintiff seeks monetary relief over \$250,000 but not more than \$1,000,000. The damages sought are within the jurisdictional limits of this Court.

G. DEMAND FOR JURY


12. Plaintiff demands a jury trial and tenders the appropriate fee with the Original Petition.

H. PRAYER

13. WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendant be cited to appear and answer this suit, and that upon final trial, he have judgment against Defendant for actual damages, prejudgment interest and post-judgment interest at the highest rate provided by law, costs of court, and all other relief, both general and special, at law or in equity, to which he may show himself justly entitled.

Respectfully submitted,

KOLODNY LAW FIRM, PLLC


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ATTORNEYS FOR PLAINTIFF
ANTONIO MILLER

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Associated Case Party: Antonio Miller

Name	BarNumber	Email	TimestampSubmitted	Status
Rashon Murrill		rmurrill@fko-law.com	5/9/2023 1:48:52 PM	SENT
Mackayla Moss		mmoss@fko-law.com	5/9/2023 1:48:52 PM	SENT
Marie McLaughlin		mmclaughlin@fko-law.com	5/9/2023 1:48:52 PM	SENT
Alan Kolodny		akolodny@fko-law.com	5/9/2023 1:48:52 PM	SENT

CAUSE NO. 2023-28725

ANTONIO MILLER
Plaintiff

VS.

WALMART STORES TEXAS, LLC
Defendant

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

80TH JUDICIAL DISTRICT

ORIGINAL ANSWER AND JURY DEMAND OF DEFENDANT
WALMART STORES TEXAS, LLC

TO HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant, WALMART STORES TEXAS, LLC, and files its Original Answer and Jury Demand, and would show the Court the following:

I.

GENERAL DENIAL

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant asserts a general denial.

II.

JURY DEMAND

Pursuant to Rule 216 of the Texas Rules of Civil Procedure, Defendant demands a jury trial. Defendant is tendering the required fee with its jury demand.

III.

RULE 193.7 NOTICE

Pursuant to Texas Rules of Civil Procedure 193.7, this will serve as actual notice that Defendant intends to use produced documents/tangible items against Plaintiff in pretrial proceedings and at trial. Accordingly, production of a document(s)/tangible items in response to this Request for Disclosure authenticates the document(s)/tangible items for use against Plaintiff

in any pretrial proceeding or at trial unless Plaintiff objects to the authenticity of any produced document(s)/tangible items within the time limits as particularly set out in Texas Rules of Civil Procedure 193.7.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by reason of this suit herein, and that Defendant goes hence without day and recover its costs.

MEHAFFY WEBER, P.C.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Defendant's Answer has been forwarded to opposing counsel of record by electronic filing, on this 26th day of May, 2023.

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